

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

EDWARD ALVARADO, *et al.*,

Plaintiffs,

v.

FEDERAL EXPRESS CORPORATION,

Defendant.

No. C 04-0098 SI, No. C 04-0099 SI

**ORDER DENYING WITHOUT
PREJUDICE DEFENDANT'S MOTION
FOR DECLARATORY RELIEF**

On February 1, 2008, the Court heard argument on defendant's motion for declaratory relief. Defendant seeks an order holding that the lienholders may not state a claim for fees or costs against FedEx with regard to the seven settling plaintiffs. One lienholder, Kay McKenzie Parker, has filed a response to defendant's motion, asserting that the motion should be referred to the Special Master because he is currently considering many of the same issues regarding fees and costs in connection with the three plaintiffs who have prevailed at trial. Defendant opposes referral.


The Court finds that it is prudent to allow the Special Master to conclude his work on the matters pending before him before this Court resolves the issues raised by defendant's motion for declaratory relief. Defendant may be correct that the attorneys' fees matters before the Special Master are analytically distinct from the questions presented by defendant's motion for declaratory relief. However, the Court finds it would be premature to make such a determination without the benefit of the Special Master's decisions on the motions pending before him.¹ Accordingly, the

¹ The Court is not referring defendant's motion for declaratory relief to the Special Master, nor does the Court envision that the Special Master will conduct any proceedings with regard to the issues raised by defendant's current motion.

1 Court DENIES defendant's motion without prejudice to renewal in this Court after the Special
2 Master has concluded his work on the motions currently pending before him. (Docket No. 976).

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4 **IT IS SO ORDERED.**

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6 Dated: February 4, 2008



SUSAN ILLSTON
United States District Judge